

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

WILLIAM C. MARTIN,

Petitioner,

v.

ERNIE MOORE, WARDEN
LEBANON CORRECTIONAL
INSTITUTION,

Respondent.

CASE NO. 2:12-CV-878
JUDGE GEORGE C. SMITH
MAGISTRATE JUDGE ABEL

OPINION AND ORDER

On December 16, 2013, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 be dismissed. Petitioner has filed an *Objection* to the Magistrate Judge's Report and Recommendation. Doc. No. 19. Respondent has filed a *Response*. Doc. No. 20. For the reasons that follow, Petitioner's *Objection*, Doc. 19, is **OVERRULED**.

Petitioner objects to the Magistrate Judge's recommendation of dismissal of all of his claims. He contends that his claim that his convictions were against the manifest weight may properly be considered in these proceedings. Petitioner again argues that the evidence was constitutionally insufficient to sustain his convictions. He raises all of the same arguments he previously raised. He contends that the factual findings of the state appellate court constitute an unreasonable determination of the facts in view of the evidence that was presented. He argues at length that all of his claims warrant relief, and makes all of the same arguments he previously presented. Additionally, Petitioner asserts that he is actually innocent of the charges against him, and a victim of a manifest miscarriage of justice. *See Objection*.

Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review. For the reasons already well detailed in the Magistrate Judge's *Report and Recommendation*, Petitioner's *Objection* is not well taken. A claim regarding the manifest weight of the evidence is not properly addressed in these proceedings. Further, Petitioner has brought forth no new evidence not already available at trial indicating that he is actually innocent of the charges against him. Further, he has failed to rebut the presumption of correctness afforded to the factual findings of the state appellate court. *See* 28 U.S.C. 2254(e).

Respondent requests this Court to deny Petitioner a certificate of appealability. *See* Response. However, Petitioner has not requested a certificate of appealability, so the Court need not address that issue at this time.

Petitioner's *Objection*, Doc. No. 19, is **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

IT IS SO ORDERED.

s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT